

HOUSE _____ AMENDMENT NO. _____

Offered By

AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 689, Page 1, Section A,
Line 3, by inserting after all of said section and line, the following:

“491.075. 1. A statement made by a child under the age of fourteen or a vulnerable person
relating to an offense under chapter 565, 566, 568 or 573, performed [with or on a child] by another, not
otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the
courts of this state as substantive evidence to prove the truth of the matter asserted if:

(1) The court finds, in a hearing conducted outside the presence of the jury that the time, content
and circumstances of the statement provide sufficient indicia of reliability; and

(2) (a) The child or vulnerable person testifies at the proceedings; or

(b) The child or vulnerable person is unavailable as a witness; or

(c) The child or vulnerable person is otherwise physically available as a witness but the court
finds that the significant emotional or psychological trauma which would result from testifying in the
personal presence of the defendant makes the child or vulnerable person unavailable as a witness at the
time of the criminal proceeding.

2. Notwithstanding subsection 1 of this section or any provision of law or rule of evidence
requiring corroboration of statements, admissions or confessions of the defendant, and notwithstanding
any prohibition of hearsay evidence, a statement by a child when under the age of fourteen, or a
vulnerable person, who is alleged to be victim of an offense under chapter 565, 566, 568 or 573 is
sufficient corroboration of a statement, admission or confession regardless of whether or not the child or
vulnerable person is available to testify regarding the offense.

3. A statement may not be admitted under this section unless the prosecuting attorney makes
known to the accused or the accused's counsel his or her intention to offer the statement and the
particulars of the statement sufficiently in advance of the proceedings to provide the accused or the
accused's counsel with a fair opportunity to prepare to meet the statement.

4. Nothing in this section shall be construed to limit the admissibility of statements, admissions or
confessions otherwise admissible by law.

5. For the purposes of this section, "vulnerable person" shall mean a person who, as a result of an
inadequately developed or impaired intelligence or a substantial psychiatric disorder, lacks the mental
capacity to consent, or whose developmental level does not exceed that of an ordinary child of fourteen
years of age.

1 565.072. 1. A person commits the crime of domestic assault in the first degree if he or she
2 attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household
3 member, including any child who is a member of the family or household, or an adult who is or has been
4 in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section
5 455.010.

6 2. Domestic assault in the first degree is a class B felony unless in the course thereof the actor
7 inflicts serious physical injury on the victim or has previously pleaded guilty to or been found guilty of
8 committing this crime, in which case it is a class A felony.

9 565.073. 1. A person commits the crime of domestic assault in the second degree if the act
10 involves a family or household member, including any child who is a member of the family or household,
11 or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the
12 actor, as defined in section 455.010, and he or she:

13 (1) Attempts to cause or knowingly causes physical injury to such family or household member
14 by any means, including but not limited to, by use of a deadly weapon or dangerous instrument, or by
15 choking or strangulation; or

16 (2) Recklessly causes serious physical injury to such family or household member; or

17 (3) Recklessly causes physical injury to such family or household member by means of any
18 deadly weapon.

19 2. Domestic assault in the second degree is a class C felony.

20 565.074. 1. A person commits the crime of domestic assault in the third degree if the act involves
21 a family or household member, including any child who is a member of the family or household, or an
22 adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor,
23 as defined in section 455.010 and:

24 (1) The person attempts to cause or recklessly causes physical injury to such family or household
25 member; or

26 (2) With criminal negligence the person causes physical injury to such family or household
27 member by means of a deadly weapon or dangerous instrument; or

28 (3) The person purposely places such family or household member in apprehension of immediate
29 physical injury by any means; or

30 (4) The person recklessly engages in conduct which creates a grave risk of death or serious
31 physical injury to such family or household member; or

32 (5) The person knowingly causes physical contact with such family or household member
33 knowing the other person will regard the contact as offensive; or

34 (6) The person knowingly attempts to cause or causes the isolation of such family or household
35 member by unreasonably and substantially restricting or limiting such family or household member's
36 access to other persons, telecommunication devices or transportation for the purpose of isolation.

37 2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a
38 class A misdemeanor.

39 3. A person who has pleaded guilty to or been found guilty of the crime of domestic assault in the
40 third degree more than two times against any family or household member as defined in section 455.010,

1 or of any offense committed in violation of any county or municipal ordinance in any state, any state law,
2 any federal law, or any military law which, if committed in this state, would be a violation of this section,
3 is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault.
4 The offenses described in this subsection may be against the same family or household member or against
5 different family or household members.”; and
6

7 Further amend said bill and page, Section 565.182, Line 9, by inserting after all of said section and line,
8 the following:
9

10 “568.055. 1. As used in this section the following terms shall mean:

11 (1) "Abuse", the infliction of physical, sexual, or mental injury or harm, except abuse shall not
12 include injury or harm inflicted on a child by accidental means by an adult household member or
13 discipline of a child, including spanking, in a reasonable manner;

14 (2) "Mental injury", an injury to the intellectual or psychological capacity or the emotional
15 condition of a child as evidenced by an observable and substantial impairment of the ability of the child to
16 function within his or her normal range of performance or behavior;

17 (3) "Neglect", the failure to provide, by those responsible for the care, custody, and control of a
18 child under the age of eighteen years, when such failure harms the health, safety or welfare of the child or
19 presents a substantial probability that death or physical injury would result;

20 (4) "Physical injury", physical pain, illness, or any impairment of physical condition, including,
21 but not limited to, permanent or temporary disfigurement and impairment of any bodily function or organ;

22 (5) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent
23 medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical
24 condition. Serious emotional injury shall be established by testimony of qualified experts upon the
25 reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

26 (6) "Serious physical injury", a physical injury that creates a substantial risk of death or that
27 causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

28 (7) "Shaken baby syndrome", a physical injury caused by the rotational acceleration of the head
29 by any means, including, but not limit to, shaking, jerking, pushing, pulling, slamming, or kicking.

30 2. A person commits the offense of abuse or neglect of a child if such person knowingly causes a
31 child who is less than eighteen years of age:

32 (1) To suffer unjustifiable physical or mental injury as a result of abuse or neglect;

33 (2) To be placed in a situation in which the child may suffer physical or mental injury as the
34 result of abuse or neglect; or

35 (3) To suffer from shaken baby syndrome.

36 3. A person does not commit abuse or neglect of a child by virtue of the sole fact that the person
37 delivers or allows the delivery of a child to a provider of emergency services.

38 4. Abuse or neglect of a child is a class C felony, without eligibility for probation or parole until
39 the defendant has served no less than one year of such sentence, unless the person has previously been
40 found guilty of a violation of this section or of a violation of the law of any other jurisdiction that

1 prohibits the same or similar conduct or the injury inflicted on the child is a serious emotional injury or a
2 serious physical injury, in which case abuse or neglect of a child is a class B felony, without eligibility for
3 probation or parole until the defendant has served no less than five years of such sentence.

4 5. Notwithstanding subsection 4 of this section to the contrary, abuse or neglect of a child is a
5 class A felony, without eligibility for probation or parole until the defendant has served not less than
6 fifteen years of such sentence, if:

7 (1) The injury is a serious emotional injury or a serious physical injury;

8 (2) The child is less than fourteen years of age; and

9 (3) The injury is the result of sexual abuse as defined under section 566.100 or sexual
10 exploitation of a minor as defined under section 573.023.

11 6. The circuit or prosecuting attorney may refer a person who is suspected of abuse or neglect of
12 a child to an appropriate public or private agency for treatment or counseling so long as the agency has
13 consented to taking such referrals. Nothing in this subsection shall limit the discretion of the circuit or
14 prosecuting attorney to prosecute a person who has been referred for treatment or counseling pursuant to
15 this subsection.”; and

16
17 Further amend said bill, Page 4, Section 570.145, Line 87, by inserting after all of said section and line,
18 the following:

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20 “630.005. As used in this chapter and chapters 631, 632, and 633, unless the context clearly
21 requires otherwise, the following terms shall mean:

22 (1) "Administrative entity", a provider of specialized services other than transportation to clients
23 of the department on behalf of a division of the department;

24 (2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a
25 psychological or physiological dependency from continued use, which dependency induces a mental,
26 emotional or physical impairment and which causes socially dysfunctional behavior;

27 (3) "Chemical restraint", medication administered with the primary intent of restraining a patient
28 who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a
29 person's medical condition;

30 (4) "Client", any person who is placed by the department in a facility or program licensed and
31 funded by the department or who is a recipient of services from a regional center, as defined in section
32 633.005;

33 (5) "Commission", the state mental health commission;

34 (6) "Consumer", a person:

35 (a) Who qualifies to receive department services; or

36 (b) Who is a parent, child or sibling of a person who receives department services; or

37 (c) Who has a personal interest in services provided by the department. A person who provides
38 services to persons affected by intellectual disabilities, developmental disabilities, mental disorders,
39 mental illness, or alcohol or drug abuse shall not be considered a consumer;

40 (7) "Day program", a place conducted or maintained by any person who advertises or holds

1 himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation for persons
2 affected by mental disorders, mental illness, intellectual disabilities, developmental disabilities or alcohol
3 or drug abuse for less than the full twenty-four hours comprising each daily period;

4 (8) "Department", the department of mental health of the state of Missouri;

5 (9) "Developmental disability", a disability:

6 (a) Which is attributable to:

7 a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability
8 related to a brain dysfunction; or
9 b. Any other mental or physical impairment or combination of mental or physical impairments;
10 and

11 (b) Is manifested before the person attains age twenty-two; and

12 (c) Is likely to continue indefinitely; and

13 (d) Results in substantial functional limitations in two or more of the following areas of major
14 life activities:

15 a. Self-care;

16 b. Receptive and expressive language development and use;

17 c. Learning;

18 d. Self-direction;

19 e. Capacity for independent living or economic self-sufficiency;

20 f. Mobility; and

21 (e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or
22 generic care, habilitation or other services which may be of lifelong or extended duration and are
23 individually planned and coordinated;

24 (10) "Director", the director of the department of mental health, or his designee;

25 (11) "Domiciled in Missouri", a permanent connection between an individual and the state of
26 Missouri, which is more than mere residence in the state; it may be established by the individual being
27 physically present in Missouri with the intention to abandon his previous domicile and to remain in
28 Missouri permanently or indefinitely;

29 (12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a
30 temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in
31 psychological or physiological dependency resulting from continued use, which dependency induces a
32 mental, emotional or physical impairment and causes socially dysfunctional behavior;

33 (13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to
34 enhance and maximize a person with an intellectual disability or a developmental disability to cope with
35 the environment and to live as normally as possible;

36 (14) "Habilitation center", a residential facility operated by the department and serving only
37 persons who are developmentally disabled;

38 (15) "Head of the facility", the chief administrative officer, or his designee, of any residential
39 facility;

40 (16) "Head of the program", the chief administrative officer, or his designee, of any day program;

1 (17) "Individualized habilitation plan", a document which sets forth habilitation goals and
2 objectives for residents and clients with an intellectual disability or a developmental disability, and which
3 details the habilitation program as required by law, rules and funding sources;

4 (18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and
5 rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse, and which
6 details the rehabilitation program as required by law, rules and funding sources;

7 (19) "Individualized treatment plan", a document which sets forth the care, treatment and
8 rehabilitation goals and objectives for patients and clients with mental disorders or mental illness, and
9 which details the treatment program as required by law, rules and funding sources;

10 (20) "Investigator", an employee or contract agent of the department of mental health who is
11 performing an investigation regarding an allegation of abuse or neglect or an investigation at the request
12 of the director of the department of mental health or his designee;

13 (21) "Least restrictive environment", a reasonably available setting or mental health program
14 where care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of
15 services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and
16 to enable the person to maximize his or her functioning potential to participate as freely as feasible in
17 normal living activities, giving due consideration to potentially harmful effects on the person and the
18 safety of other facility or program clients and public safety. For some persons with mental disorders,
19 intellectual disabilities, or developmental disabilities, the least restrictive environment may be a facility
20 operated by the department, a private facility, a supported community living situation, or an alternative
21 community program designed for persons who are civilly detained for outpatient treatment or who are
22 conditionally released pursuant to chapter 632;

23 (22) "Mental disorder", any organic, mental or emotional impairment which has substantial
24 adverse effects on a person's cognitive, volitional or emotional function and which constitutes a
25 substantial impairment in a person's ability to participate in activities of normal living;

26 (23) "Mental illness", a state of impaired mental processes, which impairment results in a
27 distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or
28 alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious
29 control over his actions. The term "mental illness" does not include the following conditions unless they
30 are accompanied by a mental illness as otherwise defined in this subdivision:

31 (a) Mental retardation, developmental disability or narcolepsy;

32 (b) Simple intoxication caused by substances such as alcohol or drugs;

33 (c) Dependence upon or addiction to any substances such as alcohol or drugs;

34 (d) Any other disorders such as senility, which are not of an actively psychotic nature;

35 (24) "Mental retardation", significantly subaverage general intellectual functioning which:

36 (a) Originates before age eighteen; and

37 (b) Is associated with a significant impairment in adaptive behavior;

38 (25) "Minor", any person under the age of eighteen years;

39 (26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital
40 or other mental health facility or mental health program pursuant to the provisions of chapter 632;

1 (27) "Psychosurgery",
2 (a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the
3 purpose of changing or controlling behavior; or
4 (b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control,
5 change or affect behavioral disturbances, except seizure disorders;
6 (28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or
7 optimum health or constructive activity through care, treatment, training, counseling or specialized
8 attention;
9 (29) "Residence", the place where the patient has last generally lodged prior to admission or, in
10 case of a minor, where his family has so lodged; except, that admission or detention in any facility of the
11 department shall not be deemed an absence from the place of residence and shall not constitute a change
12 in residence;
13 (30) "Resident", a person receiving residential services from a facility, other than mental health
14 facility, operated, funded or licensed by the department;
15 (31) "Residential facility", any premises where residential prevention, evaluation, care, treatment,
16 habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness,
17 intellectual disability, developmental disabilities or alcohol or drug abuse; except the person's dwelling;
18 (32) "Specialized service", an entity which provides prevention, evaluation, transportation, care,
19 treatment, habilitation or rehabilitation services to persons affected by mental disorders, mental illness,
20 intellectual disabilities, developmental disabilities or alcohol or drug abuse;
21 (33) "Vendor", a person or entity under contract with the department, other than as a department
22 employee, who provides services to patients, residents or clients;
23 (34) "Vulnerable person", any person in the custody, care, or control of the department that is
24 receiving services from an operated, funded, licensed, or certified program, or any person who, as a result
25 of an inadequately developed or impaired intelligence or a substantial psychiatric disorder, lacks the
26 mental capacity to consent, or whose developmental level does not exceed that of an ordinary child of
27 fourteen years of age.

28
29 [568.060. 1. A person commits the crime of abuse of a child if such person:

30 (1) Knowingly inflicts cruel and inhuman punishment upon a child less than seventeen
31 years old; or

32 (2) Photographs or films a child less than eighteen years old engaging in a prohibited
33 sexual act or in the simulation of such an act or who causes or knowingly permits a child
34 to engage in a prohibited sexual act or in the simulation of such an act for the purpose of
35 photographing or filming the act.

36 2. As used in this section "prohibited sexual act" means any of the following, whether
37 performed or engaged in either with any other person or alone: sexual or anal intercourse,
38 masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other
39 sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual
40 stimulation or gratification of any individual who may view such depiction.

41 3. Abuse of a child is a class C felony, unless:

42 (1) In the course thereof the person inflicts serious emotional injury on the child, or the
43 offense is committed as part of a ritual or ceremony in which case the crime is a class B

1 felony; or
2 (2) A child dies as a result of injuries sustained from conduct chargeable pursuant to the
3 provisions of this section, in which case the crime is a class A felony.
4 4. As used in this section, the word "fetishism" means a condition in which erotic
5 feelings are excited by an object or body part whose presence is psychologically
6 necessary for sexual stimulation or gratification.]" ; and
7

8 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.